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Summary record of the 21st meeting
Held at Headquarters, New York, on Wednesday, 17 October 2018, at 10 a.m.

Chair: Mr. Saikal ..... (Afghanistan)
later: Ms. Shikongo (Vice-Chair) ..... (Namibia)

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The meeting was called to order at 10.05 a.m.

Agenda item 74: Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (A/73/40, A/73/44, A/73/48, A/73/55, A/73/56, A/73/140, A/73/207, A/73/264, A/73/281, A/73/282 and A/73/309)

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(c) Human rights situations and reports of special rapporteurs and representatives (A/73/299, A/73/308, A/73/330, A/73/332, A/73/363, A/73/380, A/73/386, A/73/397, A/73/398 and A/73/404)

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (A/73/36 and A/73/399)

1. **Ms. Ní Aoláin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), introducing her report (A/73/361), said that statistics had shown that over the previous year, Afghanistan, Iraq, Nigeria, Syria and Pakistan had borne the brunt of violence, terrorism, trauma, destruction of infrastructure, internal displacement and unquantifiable harm to social and cultural life. She had been deeply affected by her meetings with victims of terrorism in France and Belgium, and the international community must sustain its commitment to such victims and adopt a human rights-based complaint approach that would ensure that all their needs for care were met in the short, medium and long terms. The continued lack of meaningful and sustained engagement by the counter-terrorism architecture with non-governmental and civil society organizations was a concern, and she welcomed the proposal by the Office of Counter-Terrorism to establish a civil society unit, noting that it was supported by her mandate.

2. A serious concern described in detail in the report was the distinct move from treaty-making as the dominant mode of legal regulation in the area of counter-terrorism to assertive and broadly crafted regulatory Security Council resolutions having the primary role in shaping the legal obligations of States in respect of countering terrorism and violent extremism. That shift had had a negative effect on the advancement of meaningful protection of human rights. It appeared that many such resolutions had urged and sometimes required States to implement sanctions regimes and counter-terrorism measures at the expense of the protection of fundamental rights and liberties. As detailed in the report, expedited and non-transparent processes had major implications for public scrutiny, debate and input from relevant actors including States that were not members of the Security Council and civil society. The definition of terminology such as "terrorist act" was overly broad and vague and could fail to satisfy the principle of legality. Agreed definitions of such terms were needed. Meaningful consultations with criminal law and human rights experts across different legal systems, including those within the United Nations system, at the drafting and negotiation stages would reveal and potentially ameliorate the regulatory consequences. However, the speed and closed nature of the process of drafting Security Council resolutions on counter-terrorism made the possibility of such input quite unlikely.

3. Although recognizing obligations to comply with international law including international humanitarian law, human rights law and refugee law in the text of Security Council resolutions was an improvement, it was not enough to meaningfully protect rights. Clear and specific human rights guidance must be contained in the same text rather than just generic mentions of rights. Human rights implications must be analysed and the consequences of "fast-track" resolutions of legislative character must be carefully considered. The General Assembly should enhance the rule of law capacity of the Office of Counter-Terrorism, support the oversight and expertise of the Office of the High Commissioner for Human Rights, and realize the commitment to mainstream human rights as affirmed in the United Nations Global Counter-Terrorism Strategy.

4. **Mr. Tennakoon** (United Kingdom) said that all actions to combat the widespread threat of terrorism must fully respect human rights, fundamental freedoms and the rule of law in order to be effective in the long term. Given the vital role played by the Counter-Terrorism Committee Executive Directorate, his delegation would be grateful to hear the Special Rapporteur's views on how that body could enhance its

efforts to promote respect for human rights in the monitoring of implementation of Security Council resolutions on counter-terrorism.

5. **Ms. Carlé** (Belgium), speaking on behalf of the European Union and its member States, said that the European Union was committed to multilateralism in combating terrorism. Human rights and fundamental freedoms must be fully integrated in all United Nations counter-terrorism initiatives, and the victims of terrorism as well as civil society actors and women should be involved in the fight against terrorism.

6. The implementation of Security Council resolution 2178 (2014) should be in full accordance with international human rights law. She asked the Special Rapporteur how States should address the question of foreign terrorist fighters and returnees, and particularly their children, who were the most vulnerable group. In addition, she wished to know which elements of a common definition of terrorism were crucial in the international context and which should be incorporated at the domestic level.

7. **Mr. Kelly** (Ireland) said that security and human rights should not be seen as competing interests, and it was essential that domestic legislative frameworks addressing terrorism and violent extremism were consistent with international human rights obligations. Human rights must be the cornerstone upon which international and domestic counter-terrorism frameworks were built, and more action was needed to reflect that principle

8. His delegation agreed with the Special Rapporteur in her condemnation of the misuse of counter-terrorism laws by a number of States with the aim of limiting the right to freedom of expression. It was a matter of concern that some language used by the Security Council could occasionally create conditions permitting the limitation of human rights norms at the national level. While recognizing that limited time was often a critical element faced by the Council, he would welcome deeper engagement with civil society and more inclusive debate and examination in the work of counter-terrorism.

9. **Mr. Lafta** (Iraq) said that States must ensure that their efforts to combat terrorism were in line with their obligations under international law, including human rights law, refugee law and humanitarian law.

10. Iraq fully supported the United Nations Global Counter-Terrorism Strategy, which underscored the steadfast rejection and condemnation of terrorism by the international community and its determination to take practical steps to eliminate terrorism in all its forms, including by strengthening the capacity of States to combat terrorist groups and enhancing coordination among relevant United Nations agencies and programmes. In that connection, the adoption of Security Council resolution 2379 (2017) on threats to international peace and security should be seen as a milestone in terms of efforts to bring the perpetrators of terrorist crimes to justice and deter individuals and organizations from providing financial or other forms of support to terrorist groups.

11. The Government of Iraq had taken numerous steps to ensure that it upheld human rights principles while combating terrorism and had adopted legislation on the provision of compensation to victims of terrorism and military operations. The country's Independent High Commission for Human Rights monitored all cases in which civilians were harmed in the course of counter-terrorism operations and human rights were also monitored by civil society organizations, which enjoyed complete freedom to operate within Iraq. Furthermore, national security institutions conducted independent investigations into allegations of human rights abuses and had incorporated modules on human rights principles into staff training programmes in order to raise awareness among security service personnel of the importance of safeguarding human rights while countering terrorism.

12. **Ms. Chekrizova** (Russian Federation) said that the Special Rapporteur appeared to be hostage to the current fashion of criticizing every aspect of the Council's work without considering the context in which it worked, as her mandate did not extend to analysing Security Council resolutions or discussing the Council's approach to documents. The Russian delegation urged her to refrain from that misguided practice, respect the current division of labour in the United Nations system and concentrate on her specific mandate.

13. A unified approach to the human rights dimension of counter-terrorism did not currently exist and could not be created until all States showed the good will and readiness to renounce opportunistic interests and geopolitical considerations. In practice, regional stability and security was jeopardized by insufficient cooperation among States in the fight against terrorism. The patent unwillingness of certain States to categorically denounce international terrorism in all its forms and manifestations on grounds of freedom of speech was alarming. It was particularly unpalatable that they defended or exculpated terrorists using language reserved for human rights. It was also inexcusable for certain United Nations bodies focused on protecting the rights of terrorists and those suspected

of terrorism while failing to defend victims or deal with the impact of terrorist activities on the respect for human rights.

14. The Russian Federation condemned the way in which the topic of observance of human rights in the context of counter-terrorism was used to exert political pressure. The premise of any international cooperation in that regard should be that terrorism could not be justified under any circumstances. Terrorist threats must be countered through the joint efforts of a broad counter-terrorism coalition and on the basis of international law and national legislation.

15. **Mr. Ríos Sánchez** (Mexico) said that the protection of human rights was a fundamental pillar of the United Nations counter-terrorism architecture. Member States should respect the independence of the Special Rapporteur's mandate and her prerogative to select the topic of the report, ensure that civil society organizations and human rights advocates had better access to discussions on human rights and guarantee the mainstreaming of a gender perspective. In the absence of a unified counter-terrorism treaty, Security Council and General Assembly resolutions should emphasize strict compliance with international human rights and humanitarian law, respect for due process, the promotion of non-discrimination and the prohibition of torture.

16. He asked what steps Member States could take to make the Security Council sanctions regime more transparent, which actors should participate in debates on that topic at the Security Council and whether Arria-formula meetings or similar formats could be used. He also wished to receive more information on the impact of technology in that area.

17. **Ms. Ní Aoláin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that she had developed a valuable relationship with the Counter-Terrorism Committee Executive Directorate over the previous year. Greater information sharing between the Directorate and other United Nations entities was an important step forward in the United Nations system-wide approach to counter-terrorism. However, greater transparency and engagement with civil society and experts by the Directorate and the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism (Counter-terrorism Committee) was needed. That was also true for the country visits undertaken to assess compliance with that resolution.

18. Victims of terrorism needed to be recognized as rights-holders in the language of human rights law, and should not be treated as a category of people separate from other victims who enjoyed rights under international law. The guidance on approaches to foreign fighters prepared by the interagency Working Groups of the Counter-Terrorism Implementation Task Force was welcome, as were the Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework, published by the Organization for Security and Cooperation in Europe. There was a global stalemate on the question of child returnees, but the obligations of international human rights and international humanitarian law and the rights of children in armed conflict were clear. Children of foreign fighters were not in a separate category and it was urgent for them to be returned to their countries of origin. The Special Rapporteur stood ready to assist States, including Belgium, in carrying out that process. On the question of definitions, the Office of the Special Rapporteur also had a precise and clear definition of terrorism that could readily be shared with any interested State.

19. On the question of misuse of counter-terrorism legislation, the majority of communications received on a weekly basis were related to the abuse of such legislation by States against civil society actors and often against those who simply disagreed with their Governments. Such practices were not in compliance with the principles of human rights and were not good administrative practice or an efficient use of counter-terrorism legislation. More disaggregated data and greater transparency in open forums such as the Counter-terrorism Committee would shed light on the actual uses of that legislation in practice. Political will would enable such improvements.

20. With regard to the comments made by the representative of the Russian Federation, she was puzzled by the view that there was no agreed set of commitments to human rights. Human rights constituted one of the pillars, agreed by States, of the United Nations Global Counter-Terrorism Strategy, to which the Government of the Russian Federation was a signatory and which it had been involved in drafting. Human rights were not mere rhetoric, but rather a set of treaty-based, specific, concise and well-defined legal obligations agreed by States.

21. Turning to the comments made by the representative of Mexico, she said that the sanctions and other regimes should indeed be made more transparent, particularly the role of the Ombudsman in that context, and the appeal and other mechanisms should be equally robust.

22. The balance between security and human rights, which were intimately related to one another, should be upheld and the international community must demonstrate real commitment to human rights, not only for moral reasons but also in order to improve the effectiveness of counter-terrorism policy.

23. **Mr. García-Sayán** (Special Rapporteur on the independence of judges and lawyers) said that the independence of judges and lawyers had become a key priority for the international community since the adoption of the Universal Declaration of Human Rights and was recognized as a pillar of democratic societies in the main international human rights instruments. The Human Rights Council and General Assembly had repeatedly underscored the need for an independent and impartial judicial system that could uphold the rule of law, democracy and respect for human rights. Their independence should, however, be a concern both for practitioners of those professions and for society, which benefitted from judicial decisions that were law-based, impartial and free from out-of-court interference. Their independence also laid solid foundations for safeguarding certain human rights, such as the protection of journalists, environmental campaigners or activists of the lesbian, gay, bisexual, transgender and queer community, whose lives could depend on the activity of an impartial and independent judiciary.

24. Current global threats to judicial independence and integrity stemmed not only from the temptation to exert political power and deprive societies of effective checks and balance, but also from corruption and organized criminal networks. In his report to the General Assembly at its seventy-second session (A/72/140), the Special Rapporteur had stressed the urgency of strengthening prevention of and global responses to corruption. International law, in particular, the United Nations Convention against Corruption, emphasized the importance of international cooperation in that regard, especially among judges and prosecutors. While national institutional capacities operating in isolation should not be neglected, it was more efficient to coordinate policies and strategies in the international community.

25. Introducing his report (A/73/365), which focused on the role of bar associations in safeguarding the independence and integrity of the legal profession, he said that professional associations of lawyers should play a decisive role in society. Under the right conditions, they could ensure the free and independent exercise of the legal profession, guaranteed access to justice and the protection of human rights. Relevant international standards, particularly the Basic Principles on the Role of Lawyers, established the freedom of associations of lawyers and independence of bar associations.

26. The report highlighted various problems related to interference in the independence of professional legal associations, from rules preventing their existence or restricting their membership to the imprisonment of members. Particular attention was paid to the criteria governing the establishment, composition and functions of bar associations. He called on Member States to ensure that such institutions were legally protected and to prevent outside influences from undermining their independence and integrity. Irrespective of national particularities, they could help State institutions to organize and provide legal aid services to the poor and vulnerable; provide legal education and training to lawyers; and contribute to public debate on legal reforms and the rule of law. The report also offered a list of good practices and recommendations aimed at ensuring the independence and effectiveness of bar associations.

27. The report also underlined the need for State authorities to protect members of bar associations and allow them to operate without intimidation, hindrance, harassment or undue interference. State repression of lawyers and their organizations represented an egregious violation of human rights, while the closure of professional associations of lawyers by the authorities was a matter of concern. Since the declaration of a state of emergency in Turkey in June 2016, the Turkish Government had decreed the closure of 34 bar associations, whose property had been confiscated without compensation. Members of those associations had been charged, indicted and sentenced to long prison terms. He publicly encouraged the Turkish Government to accept his proposal to visit the country in order to discuss topics such as the judicial stability of lawyers' organizations.

28. The temptation of exerting power without facing accountability for actions was a recurring feature, irrespective of political tendencies or social and cultural contexts. Judges and prosecutors were sometimes dismissed from their jobs or imprisoned as a way of influencing their decision-making. Checks and balance, such as the existence of independent organizations of lawyers, were awkward obstacles to such actions. Many countries, however, were endangering the balance and separation of powers by concentrating power in the executive or legislative branches. Such actions not only undermined democratic principles and the rule of law, but also sent the wrong message to citizens, who saw the highest judicial authorities being reappointed on the basis of political interests and pressures rather than character, capacity, competence and fitness. All of the

daily communications to his office concerning attacks against members of the judiciary and lawyers must be considered, as they represented a global threat affecting all societies.

29. In that context, the Basic Principles on the Independence of the Judiciary, adopted in 1985, the Basic Principles on the Role of Lawyers, adopted in 1990, and the Bangalore Principles of Judicial Conduct, adopted in 2002, had permanent relevance as conceptual guidelines for defining strategies and bringing about positive change. They were not well aligned with each other, however. The international community should update the Basic Principles on the Independence of the Judiciary, in particular, as it lacked information on crucial aspects of the reality of judicial systems, such as judicial councils and the threat to judicial independence posed by corruption and organized crime. The content of all three Principles should be adapted to reflect important contemporary issues, such as corruption, large-scale crime and protection of information and privacy.

30. He invited Member States to take the initiative to hold discussions, put forward proposals and create momentum within the Organization. The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Office on Drugs and Crime could be key driving forces for creative dialogue. He considered such developments as a priority of his mandate.

31. **Mr. Forax** (Observer for the European Union), recalling that the high-level political forum on sustainable development would examine Sustainable Development Goal 16 on the provision of access to justice for all, said that he wished to know what role bar associations could play in the implementation of the 2030 Agenda for Sustainable Development. He would also welcome information on best practices of Member States that had provided legal aid services to poor and disadvantaged persons. Lastly, he asked what the most effective safeguards were against arbitrary interference in the independence of bar associations.

32. **Ms. Shaheen** (United Arab Emirates) said that the importance of independent and impartial judges and lawyers was recognized in various legislative instruments of the United Arab Emirates, including the Constitution, which included provisions on the independence of judges. Her delegation agreed with the statement in the report that professional associations of lawyers played a key role in maintaining the integrity of the legal profession. In her country, training institutes and professional associations of lawyers and legal advisors performed that task by carrying out programmes, workshops and regular training courses for judges and lawyers.

33. It was regrettable that the report included a reference to the previous Special Rapporteur's report on her country (A/HRC/29/26/Add.2). That report did not include a number of legal and policy reforms which had been implemented or were under consideration in the United Arab Emirates.

34. She asked what types of training could be provided to judges and lawyers to strengthen the integrity and independence of the judiciary and the legal profession.

35. **Mr. El Mkhantar** (Morocco) said that his country attached great importance to the independence of judges and lawyers, which was inextricably linked to maintenance of the rule of law. In October 2018, Morocco was hosting the sixty-first Congress of the International Association of Judges, due to be attended by high-ranking magistrates from some 87 countries. It would also host an international conference on the independence of the judiciary that would focus on the right to due process. Morocco had recently made a major constitutional amendment to an article on the separation of powers, thereby establishing its judiciary as an independent power.

36. He requested more details on positive developments with regard to the independence of judges and lawyers, especially based on observations made during visits and interactions with relevant stakeholders. What further measures did he recommend that Governments should take?

37. **Ms. Chekrizova** (Russian Federation) said that the actions of judges and lawyers were instrumental to the promotion of human rights and the improvement of access to justice. The professionalism and impartiality of the legal profession were vital to the resolution of important legal questions and to the fate of individual citizens.

38. There were currently a number of alarming trends that jeopardized the independence of judges and lawyers. In Ukraine, international observers had reported an increase in the pressure exerted on lawyers for political motives. Media reports indicated, for example, that criminal procedures had been initiated against law firms defending former President Victor Yanukovych. Human rights advocates testified that lawyers were subjected to widespread violations of their rights, including criminal prosecution, physical violence, the destruction of their personal property and illegal searches of their workplace or home. Irina Nozdrovska, Yury Grabovsky and Oksana Sokolvska

were notable examples of lawyers who had suffered such violations.

39. Courts in the United States and the United Kingdom were creating a very dangerous precedent of handing down unjustified and biased verdicts in order to illegally detain dozens of Russian citizens and charge them on unsubstantiated grounds. Her delegation was also perplexed by the fact that Western partners regularly appealed to other States' leaders to influence the decisions of their independent legal bodies on major issues, sometimes before court proceedings had even concluded.

40. **Ms. Inanc-Ornekol** (Turkey) said that the independence of judges was recognized in her country's Constitution and relevant regulations. Following the incidents referred to by the Special Rapporteur in his presentation and report (A/73/365), the Government had taken swift and effective measures against various terrorist organizations. Her delegation categorically rejected the Special Rapporteur's assessment of the situation in Turkey: the measures taken by her Government were consistent with the rule of law and with Turkey's human rights obligations. The Government had lifted the state of emergency on 19 July 2018, providing the country with an excellent opportunity to promote its citizens' rights and freedoms.

41. **Mr. García-Sayán** (Special Rapporteur on the independence of judges and lawyers) said that the guarantee of an independent judiciary contributed considerably to the achievement of the 2030 Agenda by ensuring that legal disputes could be solved impartially and objectively through clear and predictable rules. With regard to best practices, he encouraged Member States to increase access to legal aid services and strengthen legal training and education on values related to the rule of law. Bar associations, for their part, should promote public debate on the development of public democratic institutions, the administration of justice and the protection of human rights. Society suffered whenever the independence and integrity of legal institutions was compromised. He appreciated the European Union's efforts to include the independence of judges and lawyers in the 2030 Agenda.

42. In response to the representative of the United Arab Emirates, he said that his report and statement had touched on certain critical elements but that he had not had the time to mention all positive developments.

43. He was encouraged by the growing awareness of the importance of independent bar associations and the nuances of the threats they faced. New threats had emerged since the establishment of his mandate decades earlier, especially regarding the use of organized crime and corruption to obtain immunity. Whereas previous Special Rapporteurs had assessed situations in which lawyers and judges had been threatened by direct and brutal repression, assassination and enforced disappearance, efforts to gain control over the judiciary and avoid checks and balances had become subtler. The international community needed to coordinate efforts against corruption in accordance with treaties such as the United Nations Convention against Corruption.

44. He was unable to respond to the comments by the Russian representative since he did not have relevant information before him regarding the situation in Ukraine.

45. He repeated his request to visit Turkey in order to speak with authorities on the ground and further develop dialogue with the Turkish Government. If Turkey had made progress towards restoring the institutional capacity of its lawyers' associations and reinstating judges who had been detained or removed from their functions, he would be glad to be in a position to report on those achievements.

46. **Mr. Jazairy** (Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights), introducing his report (A/73/175), in which he had considered recent developments concerning unilateral sanctions regimes, said that in April 2018 he had issued a joint statement with several special rapporteurs, in which they had echoed the grave concern expressed by the United Nations and the International Criminal Court about the use of force by Israel against protesters in the Gaza Strip and called for an immediate end to the blockade of Gaza. He deplored the tightening of sanctions by the United States of America against Cuba, which was all the more disappointing given the acknowledgement by the previous United States administration of the failure of sanctions. He noted with concern the impact of the sanctions against the Democratic People's Republic of Korea on access to critical medicine and health care for thousands of patients. The Global Fund to Fight AIDS, Tuberculosis and Malaria, which had supported the treatment of about 190,000 citizens of the Democratic People's Republic of Korea with tuberculosis, had announced its withdrawal from the country, on grounds believed to relate to concerns of inadvertent sanctions violations. With regard to the extraterritorial sanctions against the Russian Federation, the United States had recently added Rusal, a large Russian aluminium producer, to its sanctions list. The sanctions were likely to affect nearly 100,000 innocent people employed by Rusal across its international operations. While he welcomed the decision of the current United States administration to uphold the lifting of the sanctions

against the Sudan, which had been formally revoked in October 2017, it had been reported that the sanctions had yet to be fully lifted, as the Sudan remained on the list of State sponsors of terrorism. Although the unilateral coercive measures against Qatar were overly broad in scope and implementation, they could not be referred to as a blockade, as they did not prevent trading partners from doing business directly with the targeted county. He regretted that his efforts to favour a positive evolution of the issue between the source and target countries of the sanctions had not achieved any progress. With regard to the reimposition of sanctions by the United States against Iran, he reiterated his readiness to promote dialogue between the countries to put in place a mechanism for humanitarian exemptions, which would meet the requirements of the order of the International Court of Justice of 3 October 2018. In Venezuela, the Government claimed that the coercive measures imposed by various countries and a regional organization amounted to an economic blockade, but the Office of the United Nations High Commissioner for Human Rights had disputed the role of the sanctions in the unfolding economic and social crisis.

47. He had proposed that an advisory opinion on the legality of unilateral coercive measures be submitted to the International Court of Justice and that a United Nations central register of unilateral coercive measures be established. Member States should begin consultations on a draft declaration on unilateral coercive measures and the rule of law, covering basic principles regarding unilateral sanctions and universally or generally accepted rules of behaviour to be applied by States during the transitional period preceding the elimination of unilateral sanctions, with a view to mitigating their adverse human rights consequences. He had proposed that procurement offices be established in targeted countries under the auspices of the United Nations to enable those countries to import basic life-saving equipment and medication. In view of the gravity of the situation concerning the increase in the number of blockades, he had recommended that the Secretary-General consider appointing a special representative to defuse the tension between source and targeted countries or groups of countries and find a peaceful solution to those situations.

48. *Ms. Shikongo (Namibia), Vice-Chair, took the Chair.*

49. **Ms. Matar** (Bahrain), speaking also on behalf of Egypt, Saudi Arabia and the United Arab Emirates, said that those countries regretted that the Special Rapporteur, when referring to the measures taken against Qatar, had not distinguished between lawful and unlawful measures adopted by States. in his previous report (A/72/370), the Special Rapporteur had recognized that the measures enforced against Qatar did not constitute a blockade but rather an embargo, as they did not affect exchanges of third parties with Qatar. The Special Rapporteur should be consistent and precise in his future reporting to the Committee. It was imperative to distinguish between unilateral coercive measures that were not in accordance with international law and lawful measures that were taken for national security or counter-terrorism purposes in response to wrongful acts by States. The measures against Qatar had been taken with respect for human rights and did not affect third parties. The delegations of Bahrain, Egypt, Saudi Arabia and the United Arab Emirates welcomed the Special Rapporteur's call for Qatar to avoid undue declarations to the press and hoped that Qatar would focus on resolving the dispute.

50. **Mr. Mohamed** (Sudan) said that the Sudan had left no stone unturned in consolidating cooperation with the United Nations, the international community and relevant States and groups to lift the unilateral sanctions imposed on the country since the early 1990s. It had maintained contact at all levels with consecutive United States administrations and welcomed the clear commitment to dialogue shown by the United States. As the sanctions regime had yet to be fully lifted, the Sudan was maintaining the same level of engagement and dialogue and welcomed the efforts of the Special Rapporteur in that regard.

51. **Ms. Al-Mawlawi** (Qatar) said that the illegal unilateral coercive measures imposed on her country violated the human rights of thousands of Qatari citizens and residents, including nationals of the countries that had imposed those measures. The unjust blockade had broken up families and impeded the enjoyment of the rights to education, employment, health, property, freedom of movement, residency, litigation, religious worship and freedom of opinion and expression. The measures also constituted an incitement to racial hatred and violence. She recalled that, in July 2018, the International Court of Justice had called on the United Arab Emirates to ensure that families that included a Qatari separated by the discriminatory measures were reunited, that Qatari students affected by the measures could complete their education in the United Arab Emirates or obtain their educational records if they wished to continue their studies elsewhere, and that Qataris affected by the measures were allowed access to tribunals and other judicial organs of the United Arab Emirates. The measures and blockade imposed on Qatar violated the Charter of the United Nations, international and bilateral agreements and the norms and principles governing peaceful relations among States. They also

undermined stability and security throughout the region and beyond.

52. She reiterated her country's invitation to the Special Rapporteur to visit Qatar and asked him to provide further details of the efforts he was exerting through quiet diplomacy to facilitate the lifting of the illegal and unjustified measures.

53. **Mr. Hassani Nejad Pirkouhi** (Islamic Republic of Iran) said that his country had opted to have recourse to the International Court of Justice to safeguard the human rights of its citizens that had been infringed as a result of the imposition by the Government of the United States of unilateral sanctions following its untenable withdrawal from the Joint Comprehensive Plan of Action, which was integral to Security Council resolution 2231 (2015). The order issued by the Court on 3 October 2018 was a clear testament to the illegality of the sanctions imposed by the United States. The Islamic Republic of Iran reiterated its open invitation to the Special Rapporteur to visit the country. He asked whether coordinated action could be undertaken by all relevant human rights mandate holders given the interconnectedness of all human rights and the severe impact of unilateral coercive measures and sanctions on several basic human rights.

54. **Mr. Moncada** (Bolivarian Republic of Venezuela), speaking on behalf of the Movement of Non-Aligned Countries, said that his delegation wished to reaffirm the position agreed upon at the Ministerial Conference of the Movement held in Azerbaijan. The Movement was opposed to the use of all unilateral coercive measures, including those used as tools for political, economic or financial pressure against any country, in particular developing countries, which were not in accordance with the Charter of the United Nations and international law. The Movement was concerned by the continued imposition of measures that hindered the well-being of civilians and the full realization of human rights.

55. In its national capacity, Venezuela would encourage the drafting of a General Assembly declaration on unilateral coercive measures and the rule of law and the establishment of a United Nations register of existing unilateral coercive measures at the panel discussion on unilateral coercive measures and human rights to be held in Geneva in 2019. He asked what specific measures could be taken by the United Nations to reduce the impact of illegal coercive measures on targeted countries and to help such countries to improve their financial and business transactions and purchase food and medicine.

56. **Ms. Chekrizova** (Russian Federation) said that sanctions were a last resort to be taken solely with the approval of the Security Council to eliminate a real threat to international peace and security. Unilateral coercive measures should not be permitted as a mechanism of collective punishment or as an underhanded attempt to remove reputable companies from the market. A perfect example of such dirty games were the sanctions against the Russian company Rusal, which could prevent thousands of people, not only in the Russian Federation but also in other countries, from working. The use of unilateral sanctions to achieve short-term political goals was ineffective. It was far more effective to address problems through political and diplomatic efforts as part of a depoliticized and mutually respectful dialogue with strict adherence to international law.

57. The Special Rapporteur should carry out his future work independently, notwithstanding any pressure from individual States. The United Nations High Commissioner for Human Rights should demonstrate impartiality and provide extensive support to the Special Rapporteur, as well as other special procedures of the Human Rights Council. The Secretariat should pay the utmost attention to that issue.

58. **Ms. Rasheed** (Observer for the State of Palestine) said that her delegation welcomed the special attention paid by the Special Rapporteur to the misery and suffering inflicted on Palestinians by the Israeli occupation and his position on the discriminatory and illegal blockade of Israel on the Palestinian people in Gaza. She asked what specific measures could be taken by the international community to hold Israel accountable and compel it to respect and comply with its obligations under international law, first and foremost by ending its more than 50-year military occupation and all its crimes, many of which amounted to war crimes, against the Palestinian people and their land and by ending its illegal decade-long blockade of Gaza.

59. **Mr. Aldahhak** (Syrian Arab Republic) said that the illegal unilateral coercive measures imposed on his country had had a disastrous impact on Syrian civilians. Unilateral coercive measures contravened international law, human rights instruments and the Charter of the United Nations. Such measures also constituted a form of collective punishment on civilian populations, including, in particular, the most vulnerable groups within society, such as women and children, the sick, elderly persons and persons with disabilities, and prevented them from obtaining essential medicines, food and other basic necessities. It was ironic that the States imposing those measures on Syria continued to

claim that they were deeply concerned about the well-being of the Syrian people. Syria demanded that those States respect their obligations under international law, uphold the Charter of the United Nations and comply with the international human rights instruments to which they had acceded by immediately lifting the illegal unilateral coercive measures that they had imposed on the Syrian people.

60. **Mr. So** Ju Hyok (Democratic People's Republic of Korea) said that the unilateral coercive sanctions that had been imposed by hostile forces against his country for 70 years were the most vicious crimes against humanity and a flagrant violation of the Charter of the United Nations and international human rights conventions. They blocked the import of medicine and medical equipment for women and children and basic life-saving goods. Unilateral coercive sanctions against the Democratic People's Republic of Korea and other developing countries could not be justified by any means and must be lifted swiftly and unconditionally.

61. **Ms. Shaheen** (United Arab Emirates) said that her delegation strongly condemned unilateral coercive measures not in accordance with international law, the Charter of the United Nations and the norms and principles governing peaceful relations among States. It regretted that the Special Rapporteur had failed to make the important distinction between unlawful unilateral coercive measures and the range of lawful measures that States could take, such as countermeasures. The concerns of the Special Rapporteur with regard to the impact of the measures against Qatar were purely speculative and failed to account for the broad range of humanitarian measures implemented to minimize the disruption to the lives of Qatari citizens. The United Arab Emirates adhered to its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, and its measures were in compliance with the provisional measures order of the International Court of Justice. Qatar should recall that the Court had asked both parties to refrain from any action that might aggravate or extend the dispute or make it more difficult to resolve. She asked whether the Special Rapporteur had used the terms "sanctions" and "coercive measures" interchangeably in his report or whether the choice of term had a legal implication.

62. **Mr. Cepero Aguilar** (Cuba) said that his delegation did not agree that unilateral coercive measures, in particular economic sanctions, had the potential to harm human rights; rather, they directly violated human rights. Unilateral coercive measures were in violation of international law, the Charter of the United Nations and the norms and principles governing peaceful relations among States. Under the Charter, only the Security Council had the prerogative to impose sanctions, including the use of force. The current United States administration bore the primary responsibility for the escalation in the use of unilateral coercive measures. The economic, commercial and financial blockade imposed by the United States against Cuba for more than 56 years constituted a flagrant, severe and systematic violation of the human rights of Cubans and an act of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide.

63. **Ms. Shlain** (Israel) said that the measures implemented by Israel in the Gaza Strip were not without context. Terror attacks continued to be launched from Gaza on Israeli towns and villages. The fact that the Palestinian Authority had avoided transferring payments for infrastructure in Gaza and had resisted the recent transfer of extra assistance provided by Qatar for fuel for Gaza, which in the end had been facilitated with the consent of Israel, should be taken into consideration when blaming Israel for all the economic hardships in Gaza. Her delegation would be interested to know how to promote dialogue when dealing with a terror organization.

64. **Mr. Khashaan** (Saudi Arabia) said that the biased and prejudiced report of the Special Rapporteur made several baseless allegations against the coalition to restore legitimacy in Yemen. Rather than impeding humanitarian operations, the coalition was playing a leading role in the provision of emergency support and humanitarian assistance to the Yemeni people. Rather than imposing a blockade on Hudaydah port, the coalition had, in fact, issued more than 25,000 permits for the delivery of humanitarian assistance by land, sea and air to the people of Yemen, including through that port. Furthermore, it was the terrorist Houthi movement militias operating in Yemen, and not the members of the coalition, that were preventing humanitarian assistance from reaching Yemeni civilians. It was therefore shocking that the report made no mention of the restrictions placed on the Yemeni people by those militias and the blockades that they had imposed on certain regions and cities, including their devastating three-year blockade of Ta'izz which had caused untold suffering among that city's civilian population.

65. The report also failed to mention the fact that the Houthi movement militias had looted much of the humanitarian assistance arriving in Yemen, seized control of numerous ships delivering assistance and mined Yemeni maritime waters, thereby making it extremely difficult and costly to deliver aid to the country by sea. Saudi Arabia also rejected the allegation that the food and security crisis had resulted, inter alia, from economic strangulation. That was utterly at odds

with the truth. Indeed, Saudi Arabia had launched numerous initiatives to address the humanitarian situation and strengthen the economy of Yemen and had provided more than $2 billion to the Central Bank of Yemen. Furthermore, Saudi Arabia, together with the United Arab Emirates and Kuwait, had provided more than $1 billion in support of the United Nations Humanitarian Response Plan for Yemen. The coalition would continue to exert every effort to protect the Yemeni people from the criminal actions of the illegal Houthi movement militias.

66. **Mr. Jazairy** (Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights) said that the measures that had been taken by a group of countries against Qatar were not a blockade, but unilateral coercive measures. A blockade could be imposed in many ways, including through domestic sanctions policies on third countries to prevent them from trading. As Qatar continued to trade with outside States but could not trade directly with those particular countries, the measures constituted an embargo and not a blockade.

67. He had tried to ascertain the past practice in terms of the recognition of the legality or illegality of sanctions. A study had been conducted by the International Law Commission to define which sanctions were legal, but the draft conclusions had never been adopted. With regard to the use of the terms "sanctions" and "unilateral coercive measures" in his report, he had indicated that, although the proper term would be "unilateral coercive measures", he had used the generally utilized expressions with the understanding that he was referring only to unilateral coercive measures. No one disputed that the sanctions or measures adopted by the Security Council were legal from the point of view of international law, and his mandate did not cover such measures. However, it was unclear what was meant by "measures not in accordance with international law". The initiators of his mandate had said that sanctions by their very nature were not in accordance with international law, whereas States that applied sanctions were of the view that only those sanctions that were not in accordance with international law should be discontinued, whereas some sanctions were in accordance with international law and could be maintained. Given the controversial and political nature of the subject, the compromise for the 2030 Agenda for Sustainable Development had been to have ambiguous language in that regard. He had recommended that a request for an advisory opinion be submitted to the International Court of Justice to decide whether all unilateral coercive measures were illegal.

68. While it was good to criticize sanctions, it was better to determine the reason for the sanctions and defuse the disagreements. When sanctions moved towards blockades, that led to a dangerous situation verging on war . He had therefore suggested that the Secretary-General consider appointing a special representative, at least to deal with the most acute forms of blockades.

69. He had not yet visited Qatar, as he had received a response to his request to visit only in April 2018. He would be willing to visit, but he had informed the authorities that he did not wish to engage in "naming and shaming", as that would not yield results. In the case of the Sudan and the United States, he had helped to address the disagreements between them, so as to create conditions conducive to the lifting of sanctions, and he would like to do the same for Qatar and the group of countries imposing the sanctions. He wished to assure those countries that he did not intend to take a position on the legality or otherwise of the sanctions. He would welcome invitations to visit the other countries and would be delighted to help to begin a dialogue.

70. With regard to the question posed by the representative of the Islamic Republic of Iran, the Human Rights Council, in its resolution 37/21, had urged all special rapporteurs and existing thematic mechanisms of the Human Rights Council in the field of economic, social and cultural rights to pay due attention, within the scope of their respective mandates, to the negative impact and consequences of unilateral coercive measures and to cooperate with the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights in fulfilling his mandate.

71. With respect to the comments of the representative of Venezuela, it was high time for the Human Rights Council to devote its panel meeting to the declaration on unilateral coercive measures and the rule of law and the establishment of a register of existing unilateral coercive measures.

72. Concerning the Democratic People's Republic of Korea, there were two categories of sanctions: sanctions imposed by the Security Council, which were not within his mandate, and other unilateral sanctions. The option of operationalizing a window for humanitarian assistance, such as the one concerning the treatment of tuberculosis patients, should be considered.

73. He hoped that he would be able to convince the representative of Saudi Arabia that his work was professional and independent. Qatar too had accused him of bias and had made an official complaint against him to the President of the Human Rights Council.

74. **Ms. Al-Mawlawi** (Qatar) said that her country was complying fully with the July 2018 ruling of the International Court of Justice. Qatar would refrain from taking any steps that could exacerbate its dispute with the countries imposing the blockade and would continue its efforts to resolve the crisis through peaceful dialogue and mediation on the basis of international law and the principle of friendly relations among States.

75. Her Government looked forward to welcoming the Special Rapporteur to Qatar, where he would receive all the assistance he required to fulfil his mandate in an objective manner. Qatar also looked forward to hearing further details of his efforts to resolve the crisis. Her Government had adopted an open-door policy towards visits by United Nations special rapporteurs and would warmly welcome all special rapporteur missions to the country.

76. **Mr. Jazairy** (Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights) said that, although it was not always pleasant for States to hear, the job of special rapporteurs was to tell the truth. States must have some degree of accountability when they took measures that had an adverse impact on the living conditions of ordinary people in other countries and when their activities created de facto jurisdiction. For example, in some cases it had not been possible to treat cancer, because the necessary radiation material could not be obtained. In such cases, the State that had prohibited the export of radiation material was accountable. The question of accountability for de facto jurisdiction by source States on targeted States deserved more attention in order that concrete expression could be given to the objective of ensuring the right of each individual to legal treatment in equity and equality with others. In that regard, the International Convention on the Elimination of All Forms of Racial Discrimination could be an instrument for those States that had accepted the jurisdiction of the Committee on the Elimination of Racial Discrimination, while the International Criminal Court was another option. The European Union had in place a multilateral system whereby an aggrieved group or person could appeal to the judicial mechanisms of the European Union. The measures taken by the Council of Ministers of the European Union had sometimes been discontinued as a result of such appeals. He recommended that the experience of the European Union be examined and potentially expanded to other countries that were resorting to unilateral coercive measures on a broad basis.

77. **Mr. Kafle** (Nepal) said that his country had adopted various legislative, institutional, policy and administrative measures to fulfil its national and international human rights obligations, including a new Constitution which had come into force in 2015. The Constitution, which embraced the country's multi-ethnic, multilingual, multicultural and diverse geographical specificities, was designed to safeguard the rights of every person, group and community. It provided for the creation of the National Human Rights Commission, an independent and autonomous body responsible for promoting and upholding human rights, and established or strengthened independent constitutional commissions responsible for promoting and protecting rights. The judiciary was the guardian of the Constitution and custodian of the human rights and freedom enshrined therein. The judiciary remained independent and impartial under all circumstances and had handed down numerous landmark verdicts on the protection of fundamental human rights.

78. Nepal was a party to 24 international human rights agreements, including seven of the nine core international human rights instruments. It had established two separate transitional justice mechanisms, one on truth and reconciliation and the other on investigations into cases of enforced disappearances. The ongoing transitional justice process in Nepal was in line with the Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal (Maoist).

79. Nepal fought impunity in cases of serious violations of human rights and humanitarian law. As a member of the Human Rights Council for the period 2018–2020, it would continue to promote and protect human rights and fundamental freedoms in a fair and equitable manner. In 2004, it had become one of the first countries to draft and implement a comprehensive national human rights action plan, which had mainstreamed human rights issues into its national development policies. Nepal was currently incorporating the Sustainable Development Goals into development plans, including those related to the promotion and protection of human rights.

80. **Mr. Gonzalez** (Colombia) said that the promotion and protection of human rights was connected to the building of peace, the strengthening of democratic institutions and the rule of law, the creation of opportunities for economic development and advances in social progress. It was crucial to strengthen guarantees for the protection of human rights and promote conditions conducive to resolving conflicts and preventing their recurrence.

81. Colombia had ratified most of the major international human rights treaties and was committed to complying with its obligations thereunder. It was diligent and transparent in its submission of periodic

reports. The universal periodic review had special significance to Colombia as all countries were allowed to report their achievements and challenges in the area of human rights under the same conditions. His country would continue to work on improving its implementation of the recommendations under the universal periodic review.

82. His Government's commitment to guaranteeing human rights, especially of human rights advocates, was reflected in the Pact for the Life and for the Protection of Social Leaders and Human Rights Defenders, adopted in August 2018. In compliance with the Pact, Colombia was currently developing a comprehensive public policy comprising early warning systems, rapid protection mechanisms, models for preventing high-risk situations and instruments for imposing penalties on perpetrators of crimes against people who contributed significantly to their community.

83. **Mr. Bokwala** (Democratic Republic of the Congo) said that the protection and promotion of human rights and the implementation of human rights instruments should be considered a cornerstone of each legal system. The Democratic Republic of the Congo was a signatory to various international legal instruments and had recently taken steps to improve its human rights legal framework and institutions. While it was trying to restore peace throughout the country, it was committed to a far-reaching campaign to fight impunity by reforming the justice system.

84. In April 2013, it had adopted a law empowering courts of appeal to recognize and prosecute perpetrators of genocide, war crimes and crimes against humanity. In accordance with the Paris Principles, it had established national mechanisms on the protection of human rights, including a body to protect human rights advocates. In 2002, it had ratified the Rome Statute of the International Criminal Court and became the first country to cooperate with the Court to a significant degree. Following the country's outstanding efforts, the United Nations had removed various parties of the Democratic Republic of the Congo from those listed as not having put in place measures to improve the protection of children of countries recruiting and using child soldiers (A/72/361–S/2017/821, annex I).

85. The Democratic Republic of the Congo was committed to continuing collaboration with the United Nations on all human rights issues, on condition that its national sovereignty was respected. It encouraged all States Members of the United Nations to incorporate international human rights instruments into their domestic legislation.

The meeting rose at 12.55 p.m.